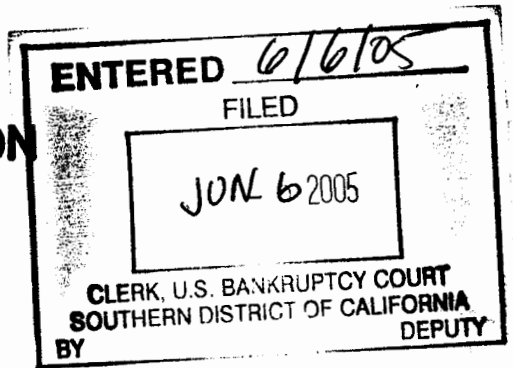


NOT FOR PUBLICATION



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re  
REGINALD J. KENNEDY,  
Debtor.

Bankruptcy No. 03-02666-JM7  
Adversary No. 03-90387

SHELLEY KENNEDY,  
Plaintiff,  
v.  
REGINALD J. KENNEDY,  
Defendant.

ORDER

The debtor, Reginald J. Kennedy ("Debtor"), filed for relief under Chapter 7 of the Bankruptcy Code ("Code") on March 21, 2003. On October 15, 2003, his ex-wife, Shelley Kennedy ("Plaintiff"), filed a nondischargeability complaint pursuant to Code Section 523(a)(15). The Debtor answered the complaint on October 31, 2003. The Debtor was not represented by counsel and he did not assert any counterclaims against the Plaintiff.

The Plaintiff filed a motion for summary judgment on February 1, 2005, and the Court conducted a hearing on the motion on February 24, 2005. At that hearing, the parties indicated that they stipulated to

1 the record and asked the Court to rule on the record as it had been  
2 presented, essentially converting the motion for summary judgment into  
3 a trial on the pleadings. The Court took the matter under submission  
4 at that time. On May 12, 2005, the Court entered an order requesting  
5 additional information from the parties, giving the parties 28 days  
6 to comply with the order.

7 On June 2, 2005, the Plaintiff filed a request to dismiss this  
8 adversary proceeding representing to the Court that the Debtor died  
9 on May 21, 2005. Pursuant to Fed.R.Civ.P. 41, as incorporated by  
10 Fed.R.Bankr.P. 7041, a Court may dismiss a complaint upon the request  
11 of a plaintiff upon the terms and conditions the Court deems proper.  
12 Since the Debtor did not raise any counterclaims and continued  
13 prosecution by the Plaintiff of her claims would be futile,

14 IT IS HEREBY ORDERED that this adversary proceeding is DISMISSED.

15  
16  
17 JUN 6 2005  
18 Date: \_\_\_\_\_

19   
20 Hon. James W. Meyers  
21 UNITED STATES BANKRUPTCY JUDGE  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**  
325 West F Street, San Diego, California 92101-6991

---

In re Bankruptcy Case No(s). 03-02666-JM7  
Adversary No(s). 03-90387

**CERTIFICATE OF MAILING**

The undersigned, a regularly appointed and qualified clerk in the office of the United States Bankruptcy Court for the Southern District of California, at San Diego, hereby certifies that a true copy of the attached document, to wit:

**Order**

was enclosed in a sealed envelope bearing the lawful frank of the bankruptcy judges and mailed to each of the parties at their respective addresses listed below:

Shelley A. Kennedy  
375 Camino Parque  
Oceanside, CA 92057

Reginald J. Kennedy  
23674 Pepper Leaf Street  
Murrieta, CA 92562

Said envelope(s) containing such document was deposited by me in a regular United States Mail Box in the City of San Diego, in said District on June 6, 2005.

  
\_\_\_\_\_  
Molly Dishman  
Judicial Assistant to the Honorable James W. Meyers